NOTES

OF THE

INVESTIGATION

BY THE

BISHOP AND STANDING COMMITTEE

IN REFERENCE TO

CERTAIN PRACTICES

AT

ST. CLEMENT'S CHURCH.

BY

DANIEL R. GOODWIN.

PHILADELPHIA:
PRESS OF BURK & M'FETRIDGE, PRINTERS AND LITHOGRAPHERS,
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IT had been the desire of the Bishop and Standing Committee, and so expressed to the Rev. Mr. Prescott and his counsel, that this investigation might be finished without the publication of any one-sided and premature appeals or statements, tending to influence and forestall public opinion; But, as pamphlets and newspaper paragraphs have appeared from time to time, all on the Rev. Mr. Prescott's side, it has been thought proper and necessary to give to the public some account of the grounds and facts on which the Bishop and Standing Committee were called to act. With that view the following imperfect "notes" are published at the request of the Bishop, several members of the Standing Committee and others.

D. R. G.

May 7th, 1880.

NOTES OF THE INVESTIGATION, &C.

THIS investigation has been made under the provisions of the second section of *Canon 22, Title I, of the Canons of the General Convention. The constitutionality of these provisions has been called in question.

The Book of Common Prayer, according to the use of the Protestant Episcopal Church in the United States, was set forth by the General Convention of 1789. In their act of ratification, the Convention "declares it to be the Liturgy of this Church, and requires that it be received as such by all the members of the same; and this book shall be in use from and after" a certain date.

This book was substituted for the Prayer-Book of the Church of England, and succeeded to all its rights and claims; and these, from the nature of the case, and by constant judicial decisions, implied that all omissions and additions in its use, were both and alike forbidden. The omission of what it requires to be used is of course forbidden, except, so far as long and general usage may be urged in defence of the omission.

The first section of Canon 22, Title I, declares on what occasions the Book of Common Prayer shall be used, and expressly adds that, then, "no other prayers shall be used than those prescribed by the said Book."

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* For text of this Canon, see Appendix.

This canon is co-eval with the Prayer-Book itself, having been first enacted in 1789, and was never imagined to be unconstitutional. It was rather a mere re-enactment or reinforcement of the constitution, by way of specific application of its general provisions.

But the rubrics of the Prayer-Book require certain ceremonies or rites to be used, as well as certain prayers; and, consequently, in the use of the Prayer-Book, any addition of ceremonies or rites, as well as any omissions of what are prescribed, are violations of the rubrics and the constitution, as much as the addition or omission of prayers. Thus far, however, (*i. e.* until 1874) there was no canon for the enforcement of this, except the general canon defining offences. But, inasmuch as some such additions or omissions might be of very trifling, and others of great importance, and as that general canon furnished no rule of distinguishing between the significant and the insignificant, the attempt to apply this canon to violations of the 8th article of the constitution, though that article would, in strictness, cover the whole ground, requiring the Prayer-Book to be used—used both in its integrity and in its simplicity—yet the practical result would have been either an interminable and unseemly litigation about ridiculous trifles, or no enforcement at all of the constitutional provision; either the strict absolute rule, or no rule at all. As long as there was no disposition to make any important or significant changes in the ceremonial of the Prayer-Book, there was not felt to be any need of further legislation; but when an attempt was made to introduce such changes, the need became imperative.

Under these circumstances, the Church has thought fit to add the second section to Canon 22, Title I, enforcing the requirements of the constitution and the rubrics in regard to ritual, as she had already done in regard to prayers. She might have prohibited in the use of the Prayer-Book the introduction of any unauthorized ceremonies or practices whatever, whether significant or insignificant; and such action would have been, not only not in violation of the constitution, but in direct enforcement of the constitution. But, leaving the constitution in its general application uninterfered with, and reserving, by an express proviso, the right of legal proceedings, under the constitution and the canons before existing, against the introduction of unauthorized ceremonies or practices in the use of the Prayer-Book, she has in this section confined her attention to the case of those unauthorized ceremonies or practices which are connected with the celebration of the Holy Communion, and which set forth or symbolize erroneous or doubtful doctrine. She has therefore kept far within her constitutional powers of legislation, so far as they are restricted by the 8th article of her fundamental law. In this second section of Canon 22, she has not made any alteration or addition in the Book of Common Prayer or other offices of the Church, or the Articles of Religion, or in the rubrics, or in the ritual they prescribe; the whole purpose, and the proper effect of her legislation, are, to prevent such alterations and additions from being made.

The General Convention of the Church, not proposing on the one hand to enforce the strict letter of the law, so as to visit with condign punishment the

introduction during divine service of any practice, ceremony, or gesture not ordained or authorized in the Book of Common Prayer, however slight or unimportant, or innocent they might be; and recognizing on the other hand, the impossibility of defining beforehand, in detail and for all cases, all the unauthorized practices and ceremonies which might be important, and which should be effectually prohibited; has, in this Canon 22, sought to provide a method by which, in each case as it arises, the law may be ascertained, defined and made known, the subsequent transgression of which may be followed by the presentment, trial and punishment of the offender.

The canon does not institute a trial. It was not intended to institute a trial. The Convention which framed it knew perfectly well, and had distinctly in mind, that, by the constitution, "the mode of trying Presbyters and Deacons may be instituted by the Convention of every Diocese." It is not called a trial but an investigation, an investigation for the purpose of ascertaining certain facts, and distinctly defining the law in relation to them. Judgment is to be passed upon the facts and not upon the person; whose offence up to that time may have been one of error only, and not of fault. It is not even preliminary to a trial. It is intended rather to prevent a trial. Its primary and proper purpose would be most perfectly accomplished when a trial should be avoided. As to the provision making it the duty of the Standing Committee, in the extreme case, to cause the clergyman to be presented for trial, we are not concerned with that at present. But that is no encroachment whatever upon the constitutional rights or legislative

powers of the Diocese; for the whole mode of trial, including the presentment itself, would still be of course under the canons of the Diocese, and in strict accordance with all their provisions and safeguards.

Moreover, the canon is not a penal statute. The investigation it institutes results in no censure or penalty upon the minister whatever. And no minister could ever be tried under this canon for the commission of any acts which should be proved in this investigation; it is only for subsequent acts that he can be criminally or penally proceeded against. If, after investigation, it shall appear that ceremonies or practices as described have in fact been introduced by any minister, the Bishop shall—not censure, not rebuke the minister—but shall admonish him to discontinue such practices or ceremonies. This is not the penal admonition of section 1, Canon 2, Title II, for that can only follow a presentment and trial under the canons of the Diocese; and if that were the only sort of admonition the Bishop could lawfully give, then this canon might be inconsistent with the 6th article of the constitution. But there is another kind of admonition which the Bishop is authorized by the Ordinal to give, and which the Bishop had a right to give whether there had been any canon upon the subject or not.*

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* No canonical provision for the trial of a presbyter by a court of presbyters was in being when the Church of England, well knowing the rule since the days of the Apostles, required of the candidates seeking priest's orders, due regard and obedience to the godly judgment and admonition of the Bishop.

No provisions by canon existed for a minister's trial and conviction, when the Church in the United States required the same vow at ordination.

We are bound to presume, therefore, that this is the kind of admonition referred to in this canon; and this is yet more clear from the subsequent provision, that, if this admonition be disregarded, the minister shall be tried for a breach of his ordination vow. Now a minister might be put upon his trial for a breach of his ordination vow, if, in any case, he disobeyed the godly admonition and judgment of his Bishop, without any previous investigation by the Standing Committee or any other party; but the lawyers had held that the minister's obedience to such admonition could be legally enforced, only when the admonition was lawful, and enjoined what was a legal duty. The intent of this Canon, therefore, was to secure that the Bishop's admonition in this case should be lawful, and that what it enjoined should have been legally ascertained, and declared to be a legal duty. This canon, therefore, neither institutes a trial, nor imposes a penalty, for it was never understood that the Bishop's admonition provided for in the Ordinal, was of a penal character. Consequently its provisions contain nothing inconsistent with any reserved rights of the Diocese, as contained in the 6th article of the

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No foregoing trial and condemnation is contemplated by the fifty-fourth of the English "Constitutions and Canons Ecclesiastical," when the ordained minister "refusing to conform himself to the laws, ordinances and rites" of the Church, "shall be admonished by the Bishop of the diocese," and if within one month "after such admonition" he do not submit, his license shall be cancelled. No trial foreruns the act of the Bishop who, by our canons, may "admonish" the misbehaving sojourner in his diocese, and "forbid him to officiate." So, no trial precedes the offending minister's "admonition" for ritual observances which set forth erroneous or doubtful doctrine, in the opinion of the Bishop and Standing Committee; only after such admonition disregarded can come a trial.—*See Bp. Paddock's Pastoral Letter, 1879.*

constitution. And, indeed, in one other point of view, the canon has a paternal instead of a penal aspect, since it provides a method of ascertaining precisely what is forbidden in the given case, and advertising the minister beforehand, so that he may avoid, if he will, the penalty which might have been incurred, in consequence of proceedings under the constitution and the former canons, for acts which he might not have supposed to be wrong.

It will be instructive to trace the history of the recent acts of the legislative body of the Church on this subject.

It has long been the declared mind of the Church and her express interpretation of her constitution, that it is the duty of her presbyters to obey the godly admonitions of their Bishops on doubtful matters of ritual. In 1868, the House of Deputies of the General Convention passed the resolution: "that meanwhile in all matters doubtful reference should be had to the ordinary, and no changes should be made against the godly counsel and judgment of the Bishop;" and the House of Bishops expressed unanimously their "full trust that the spirit of this resolution will be carried out by the action of the clergy and laity of the several Dioceses." In 1871, the two Houses passed the following concurrent resolutions:

"*Resolved*, The House of Bishops concurring, That this Convention hereby expresses its decided condemnation of all ceremonies, observances and practices, which are fitted to express a doctrine foreign to that set forth in the authorized standards of this Church.

"*Resolved*, That, in the judgment of this House, the paternal counsel and advice of our Rt. Rev. Fathers,

the Bishops of the Church, is deemed sufficient at this time to secure the suppression of all that is irregular and unseemly, and to promote greater uniformity in conducting the public worship of the Church, and in the administration of the Holy Sacrament." The House of Bishops subsequently concurred.

But the innovators laughed at the *brutum fulmen* of Episcopal admonitions even though backed by the solemn resolutions of the Convention. They would obey nothing but what could be legally enforced. Hence the Convention of 1874, at length expressed the mind of the Church in the form of a canon which should secure that, under certain circumstances, the Bishop's admonition should be legal and binding, and should *without fail* be enforced.

The Bishop admonished the Rev. Mr. Prescott, on April 17, 1877, and that with the advice of the Standing Committee, but without the investigation required by this canon. If that admonition given without an investigation was constitutional, does it become unconstitutional if given with an investigation? Does the Bishop's admonition become unconstitutional simply because it is *ascertained* beforehand, on good advice, that there are sufficient reasons for giving it?

It may be added that the investigation was not made on the former occasion, because no witnesses were found who would appear and testify. The procuring of the testimony now used is largely due to the labors of the late Committee of Inquiry, of which the Rev. Dr. Buchanan was the honored chairman.*

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* And if it be asked why, if the Rev. Mr. Prescott disregarded the Bishop's admonition on the former occasion, he was not at once proceeded against for a breach of his ordination vow, the answer is simply

And finally, this investigation was made under express authority, and by direction of the Convention of this Diocese. The Bishop and Standing Committee were acting under the following resolution of the last Diocesan Convention: "*Resolved*, That the report now submitted (on the St. Clement's case) be referred to the Bishop and Standing Committee, to take such action thereon, under existing legislation, as they may think requisite and proper." But there was no existing legislation under which the Bishop and Standing Committee could act, or could be expected to act, except this very section of Canon 22, Title I, of the Digest. This is patent and notorious. It was to this canon the resolution referred. The Diocesan Convention has, by that resolution, consented to this canon, and accepted it as legislation under which the Bishop and Standing Committee should act. It, therefore, cannot claim, it will not claim, that any of its rights have, by this canon, been encroached upon.

So much for the constitutionality of the canon. We turn now to consider its scope. It has been contended that all the practices and ceremonies within the purview of the canon, are contained under the heads *a*, *b*, *c*, in the parenthesis; and that, therefore, only acts of adoration or worship are to be forbidden. But (1) this is a parenthesis, and the canon makes a complete sense without it. (2.) It begins with "such as," and not with "viz:" it is not intended, therefore, to contain an enumeration, but to give specimens,

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this: none of the parties presented him who are by canon authorized to make presentments, and until such presentment made, neither the Bishop nor the Standing Committee could proceed any further.

examples or illustrations. "Such as," naturally implies more than is expressed after it—more, therefore, than is contained in *c*, as well as in *a* and *b*—more than other "acts like" *a* and *b*. At all events, it is not to be construed as if it were "viz:" outright. (3.) "Such as" must mean "such practices or ceremonies as," and not "such acts, such acts of worship as." (4.) Even though an enumeration had been intended closing with "all other like acts," the question would still remain, "*like* in what respect?" and the answer must be: Not, "like" in form of outward gesture, but like, as Coke says, "in mischief or inconveniency," or, in the express words of the canon, "like" in being ceremonial acts, unauthorized by the Book of Common Prayer, setting forth or symbolizing erroneous or doubtful doctrine, and used during the celebration of the Holy Communion. This is the only standard of comparison which the canon furnishes.

(5.) But the logical or legal maxim "*expressio unius est exclusio alterius*" is far from being of absolute or universal application. In Saunders *v.* Evans, 8 House of Lords cases, the Lord Chancellor (Lord Campbell) says: "There is certainly an axiom of law, *expressio unius est exclusio alterius;* but that is not of universal application. It depends upon the intention of the parties as it can be discovered upon the face of the instrument or upon the transaction." It was held that, though the only power mentioned in the instrument was to appoint by deed, yet an appointment by will was good; p. 728. Lord Coke held that, when the words are general and a statute is only declaratory of the common law, it shall extend to others besides the persons or things named; "the stronger cases

only are put, the weaker included:" thus when the king's bench only is mentioned, the provision was held to extend to the other principal courts; for, as Coke says: "all are within the same mischief and therefore ought to be within the same remedy."—Dwarris on Statutes, p. 220. When the words of the statute were, by such fraud, *hujusmodi*, "that is," says Lord Coke, "such in mischief, or such in inconveniency; and therefore all other fraudulent feoffments, tending to the same end, are within the statute, whatsoever colorable pretext they have."—Ibid, p. 232. "Sometimes," says Lord Coke, "the makers of a statute put the strongest cases, and by construction the lesser shall be included. In these cases they are put by way of example, and not as excluding other things of a similar nature."—Ibid, 206.

(6.) It is also an admitted rule of interpretation that a statute should be so construed, if possible, as to give sense and meaning to every part. The simple question is, "what did the legislator mean?" If the General Convention had really meant that the whole subject-matter of this canon was contained in the parenthesis, and that only acts of adoration or worship of or towards the sacramental elements were to be forbidden, is it conceivable that they would have constructed the body of the canon as they have done? Why did they not enact the parenthesis and leave it alone? Why go around to talk of the "introduction of practices or ceremonies not ordained or authorized in the Book of Common Prayer, and setting forth or symbolizing erroneous or doubtful doctrine?" Wherefore all this prolix description? And why repeat it again in connection with the finding of the Bishop and Standing

Committee? Such an interpretation, instead of giving sense and meaning to all the parts of the canon, makes the main body of it mere elaborate surplusage.

(7.) Finally, the history of the enactment of the canon puts our view of its meaning beyond reasonable question. Many propositions had been before the Convention containing a more or less extended enumeration of all the practices and ceremonies which were to be forbidden; but, inasmuch as it became clearly evident that a complete and satisfactory enumeration beforehand was impossible, a general description was agreed upon with quite a number of examples in the parenthesis. But the House of Bishops, which, it was well understood, was especially in favor of a stringent canon, fearing that so many examples might be mistaken for a complete enumeration, reduced the parenthesis to its present narrow dimensions, and so the canon was finally passed.

For all these reasons we are satisfied that the intention of the framers of the canon was, to give, in the parenthesis, not an enumeration, but leading examples; and that they had in view to prevent the introduction of any and all ceremonies or practices not ordained or authorized in the Book of Common Prayer, and setting forth or symbolizing erroneous or doubtful doctrine, during the celebration of the Holy Communion; while it may be presumed that such doctrine would be only doctrine having relation to that of the Holy Communion itself.

Difficulties have been raised in regard to the expression "doubtful doctrine," and it has been alleged to be impossible to determine what is such. It has even been roundly asserted that there is no

such thing. This is an extraordinary assertion, unless he who makes it can claim the attribute of omniscience. To him who knows all things there can, it is true, be nothing doubtful; but the most dogmatic of dogmatic theologians never claimed such knowledge for himself. Every doctrine must, indeed, be either true or false; but we poor fallible human creatures may be uncertain which it is. And if a man doubts *whether* a given doctrine be doubtful or not, his doubt has settled the question. Now, any doctrine which is not taught in Holy Scripture or in the Book of Common Prayer or Articles, either in express or manifestly equivalent terms, *may* be held to be doubtful; and, in this case, the burden of proof is thrown upon the respondent, because, by the terms of the canon, the doubtfulness of the doctrine condemns instead of absolving it. And this is no hardship upon the minister, for he is under no necessity—even if he have the liberty—of introducing any new or unauthorized ceremonies whatever. If he will introduce them it is at the simple risk, under the canon, of having them disapproved and their continuance forbidden. The Church means to say that, even though a minister may *preach* doubtful or disputed doctrines if he will, yet he shall not *symbolize* them by introducing unauthorized ceremonies into so solemn a service as the administration of the Holy Communion, in which all her lay communicants have their right and share, and none are to be needlessly offended.—See Article of Religion, XXXIV.

To restore or reintroduce, without due authority, any rites, ceremonies or practices in the celebration of the Holy Communion, which were formerly used

in the Church of Rome, but which were abolished at the Reformation and omitted in the English Prayer-Book and in our own, as being associated with the false doctrines of that Church, is in itself a circumstance to awaken suspicion, and renders those reintroduced and unauthorized ceremonies, rites or practices—no matter how primitive and "Catholic" they may claim to be—*prima facie* obnoxious to the charge of setting forth or symbolizing erroneous or doubtful doctrine. They are not only not ordained or authorized in the Book of Common Prayer—they have been purposely expunged and cast out.

Some quibble may, perhaps, be made upon the word "introduced," which is used in the canon—as though a clergyman could not be held to have introduced into a church what had been introduced there before. This point does not seem to have occurred to either of the four learned and astute counsel of the Rev. Mr. Prescott. And, indeed, it must be clear that the doing of certain unauthorized acts, the performing of certain unauthorized ceremonies in the Church, must, in the view of the canon, be the introduction of them into the Church. They are unauthorized; they have no proper home or lodgment in the Church; and every time they are brought in they are introduced. Suppose, for example, a clergyman should have once introduced any or all of these practices or ceremonies into a church, or into a dozen churches in rapid succession, and forthwith have abandoned our ministry and openly gone over to the Church of Rome, can it be imagined to be the intent and meaning of the canon that any clergyman or clergymen might afterwards continue those cere-

monies or practices in such church or churches, and not be amenable to its provisions?

And, besides, the canon does not say "introduced into this or that church or parish," but its words are: "introduced"—*introduced anywhere*—"by any minister, *during the celebration of the Holy Communion.*" If therefore, the fact that such practices had been before introduced into St. Clement's Church is any good defence for its present Rector from the charge of having introduced them afterwards, it is an equally good defence for any, and every other minister of the Protestant Episcopal Church; and the canon is a dead letter, unless you can find the minister that first introduced these practices into the services of this Church; and if you have found him, the canon will die with his case. Can this be its true state?

So much for the interpretation of the canon.

As to the testimony in this case, it is all on one side, it is true, and some effort has been made, not by counter-testimony, but by mere assertions and special pleading of counsel, to discredit it as being highly prejudiced. In some unimportant points its truth has been denied; but even in these the denial has been sustained by no witness. Not a particle of counter-testimony has been brought to contradict or invalidate it in the slightest particular. The Wardens and most of the Vestry of St. Clement's Church, as well as the assistant Ministers, were cited and requested to testify, but not one has appeared. Any of them could have corrected any mis-statements and given the whole truth of the case if they had pleased. But they have remained dumb. The testimony actually given before the Bishop and Standing Com-

mittee remains unimpeached, and by their silence is really confirmed, if it needed confirmation.

In weighing the testimony, the disadvantage under which such an investigation as this labors, from the want of power to compel witnesses, must not be lost sight of. If compulsory process could have been invoked, the whole question could have been settled in a moment with perfect ease. All the witnesses are of necessity purely voluntary, and every one naturally shrinks from testifying against a clergyman in such a case, if he can help it. It is an invidious, an odious office, which he would gladly leave to another if he conscientiously could. Nothing but the sternest sense of duty could bring him forward; and yet the evidence is full and conclusive on all the points in question.

The respondent, at first, refused to make any answer whatever to the charges, whether yes or no. He afterwards presented a "Statement," &c. prepared, it is to be presumed, by his counsel, and which really is only a part of their plea. On this "Statement," by their advice, he declined to be questioned—he declined to take the stand as a witness. The "Statement," therefore, cannot be received as testimony. Though we may not doubt the personal veracity of the respondent, or of his four eminent and learned counsel, yet their mere assertions or denials cannot be received as testimony to be set against that of witnesses who were subjected to their cross-examination, and whose testimony, if false, they could easily have contradicted by multitudes of witnesses, whom they could have presented had they seen fit.

But even in his "Statement," it is to be observed that the respondent has substantially admitted all the practices or ceremonies charged,—with some slight reservations.

1. He seems desirous to leave the impression that he has not himself "elevated the elements,"—though he admits that, "in very exceptional cases, the Clergy of the Parish or visiting priests may have done some of the acts alleged;"—and he affirms that, since "at or about May 1, 1879," genuflections and elevations above the head by priests celebrating at St. Clement's, have been prohibited by him and abandoned by all. But he has refused to answer as to how near the 1st of May, 1879, the prohibition was posted. The whole period from that date to the date of the "Statement" was only nine months, and it would seem that if the notice of prohibition had remained long posted, its exact date might have been remembered till then. It would seem at all events, to have been removed before the date of the "Statement." The rule about genuflections, he says, was afterwards extended to "servers;" but he has refused to answer as to how "genuflections for purposes of private devotion" are to be distinguished from genuflections "made toward the elements in the Holy Communion." He has refused to tell us whether the "directions" applied to assistant ministers and choristers also. He has refused to say whether the "directions" were merely permissive and directory, or whether they were mandatory. He says they "have been followed;" but he has refused to say whether they have been followed by all or only by some, and how long they

have been followed, whether to the present time or no. We are far from saying that he could not have given satisfactory answers to all these questions, but he has refused to answer. Meanwhile the difficulty is increased by the fact—a fact which is in unquestioned evidence—that about a fortnight after the date of those "directions," viz: on May 14, 1879, on a marked occasion, that of the special service in reference to the Rev. Dr. DeKoven,—the excitement of the last Diocesan Convention, too, having just intervened—he did himself make genuflections towards the elements, and did elevate the elements, elevate them above his head, at the time of consecration. This was on May 14th. Did he post up the notice of "May 1st," immediately after this demonstration or bravado; say, the next day, or how soon? If so, it was truly a sudden change of base: or, was the notice really posted up another fortnight or so later, and yet affirmed to have been posted, on or about May 1st? or, was it really posted as asserted, on or about May 1st, and then "followed" on May 14th, by this remarkable act of conformity on the part of the Rev. Mr. Prescott himself? or, finally, was Mr. Prescott understood to be excepted from its "directions?"—No reply—no explanation. As to the adoration of the people, it may be here observed that if the adoration of the people towards the elements is accustomed to accompany their elevation, it is presumed they were elevated with that intent; that the elevation with the priest's back to the people at the time of consecration is precisely the elevation which is to be prohibited, it being that which in the Church of Rome is attended with the special acts of worship; and that the "elevation," as a specific ceremony, is

what is to be forbidden, whether it be above the head or not.

2. He endeavors to create the impression that there have been no prostrations—or, if any, on very exceptional occasions; whereas it is in evidence that they were made on almost all the occasions on which the witnesses happened to be present. As he is responsible for the acts of other priests done in his presence and with his connivance, so he is responsible in connection with these acts of assistants, choristers, acolytes, and others—unless he has used his best endeavors to prevent them. He says he has spoken both publicly and privately against what he would call a prostration; but it may be that men generally would call that a prostration which he would not; and besides, he has given no testimony to the fact of his having thus spoken, though it could very easily have been done, and has himself refused to answer as to who were the parties to whom he has thus spoken.

3. He admits that he is in the habit of making genuflections towards the elements on certain occasions.

4. He expressly denies that any prayers or sentences have been used in the celebration of the Holy Communion, which were not taken either from the Bible or from the Book of Common Prayer. Now

(1.) Prayers and sentences, though taken from the Bible or from other parts of the Prayer-Book, if inserted in the Communion office where they are not prescribed, are unauthorized there. And they may, as

thus used and perverted, symbolize erroneous or doubtful doctrine; as, for example, if a collect from the Burial Service is substituted for the collect prescribed for the day, and 1 Thess. iv. 13-16 for the Epistle, in connection with a celebration publicly proclaimed to be for the repose of a departed soul;—a substitution which is testified to and not denied.

The devil, in the temptation of our Lord, perverted and misapplied scripture, to the setting forth of false doctrine. So did the chief priests, the scribes and the elders, as they wagged their heads in mockery at his crucifixion. The beautiful daisy, and even the wheat itself may be *weeds* when they are in the wrong place. The very formula of a reverent and righteous oath, may, when out of place, become profanation and blasphemy. This canon does not forbid acts of worship—far from it—but acts of worship in the wrong place—acts of worship directed towards the Sacramental elements.

(2.) Though the words of the so-called "Agnus Dei,"—"O Lamb of God, have mercy on us," &c., may be found elsewhere in the Book of Common Prayer, yet, when said at the moment of the priest's receiving the Holy Communion, are understood in the Church of Rome, especially to symbolize and set forth the doctrine of transubstantiation, the doctrine that the very substance of the body and blood of Christ, the Lamb of God, has now become united with what the Rev. Mr. Prescott very significantly calls, after the Roman terminology, "the Sacred Species," *i. e.* with the outward appearance, the accidents or sensible qualities of the consecrated bread and wine. (See Folkstone case, p. 514.)

(3.) But, besides, it appears in full evidence, that prayers and sentences, particularly the petitions of the so-called "Anima Christi," were said by the respondent himself, on the Thursday after Trinity Sunday, in 1878, at the celebration of the Holy Communion, the people being on their knees at the time;—petitions which expressly set forth or symbolize doctrine, and which are not contained either in the Bible or the Book of Common Prayer. And this, too, on a very marked occasion, the day being no other than that set apart in the Church of Rome for the commemoration of the doctrine of transubstantiation, and called *Corpus Christi* day; and being, at the same time, appointed as the anniversary of the "Confraternity of the Blessed Sacrament," which anniversary the respondent was, at that time, in the act of celebrating, and for which confraternity, prayers were offered in connection with the Communion Service.

5. The respondent professes partial ignorance in regard to the Hymns and Anthems used. But, in the first place, he is made responsible by express law of the Church, for the selection and appointment of what Psalms, Hymns or Anthems are to be sung, and these are to be from those set forth by this Church; (see Canon 23, Title I,) and, in the second place, it appears in evidence, that a Romish Mass, and that for the repose of the departed, was sung in his presence, at the celebration of the Holy Communion, and that on a significant occasion, it being no other than a service held professedly with special reference to the death of a distinguished Presbyter in this Church.

6. The omission of the longer exhortation, "Ye who mind to come," &c., particularly at the "High Celebrations" (or Solitary Communions) "on Great Festivals," is proved and fully admitted. The shorter exhortation was not heard on one occasion, and on another, was said with the back to the people.

7. The use of candles (proved as a ceremony) is admitted, and admitted to be symbolical.

8. The use of acolytes is admitted, particularly of two holding and ceremonially moving two candles.

So much for the Respondent's "Statement," &c.

To sum up the results of the evidence:

1. Genuflections, and bowings to or before the Lord's Table while the elements were on it, were made by the Rev. Mr. Prescott and his attendants, at the celebration of the Holy Communion on June 9th, 1878; and prostrations were made by the attendants (or acolytes) and choristers on the same occasion, at the elevation of the elements. Similar acts by the clergy and choristers on June 16th and November 23d, 1878, and on other occasions.

2. The use of candles, and lights in the chancel beyond what were needed for the purpose of giving light. This took place on June 9th and 16th, and on Christmas, 1878, as well as on other occasions.

3. The wearing of the chasuble and of other kinds of vestments and ornaments other than the usual and recognized vestments which have been worn by the clergy of this Diocese from the beginning. This took

place on June 9th and on Christmas, 1878, and May 14th, 1879, as well as on other occasions.

4. The elevation of the bread and wine during or after the consecration, so as to expose them to the view of the people as objects towards which adoration is to be made. This was done by the officiating clergyman in Mr. Prescott's presence on June 9th and November 23d, and on Christmas, 1878; as well as by the Rev. Mr. Prescott himself on Thursday after Trinity Sunday in the same year, and on the 14th of May, 1879. That this elevation was followed by acts of profound adoration towards the elements is sufficient evidence of its intent.

5. The employment of acolytes or servers in the celebration of the Holy Communion. This on June 9th, November 23d and on Christmas, 1878, and fully admitted to be customary at St. Clement's Church.

6. The celebration of the Holy Communion at times, and under circumstances, when the members of the congregation were neither invited nor expected to partake. These are called "the High Celebrations" on "Great Festivals," and on certain other Sundays at or about 11 o'clock, A. M. Such celebrations took place on June 9th and November 23d, and on Christmas in 1878. On these occasions the people did not partake, and were not invited to partake; for, on June 9th, 1878, the exhortation—"Ye who do truly, &c.," was said with the back to the people, and on November 23d was not heard, while the longer exhortation was omitted entirely; and at Christmas, 1878, express notice was given that no one but the priest

could communicate on High Festival days, and if any presented themselves they would be rejected. That the people are not expected to come forward to communicate on these occasions, appears from the distinct admission on the part of the Rev. Mr. Prescott, that they are taught that it is on all accounts desirable that they should communicate at an earlier hour. Why, then, later celebrations, when it is found that as a matter of fact, the people, in accordance with the advice and instruction they have received, do not come to communicate? They naturally do not feel that they are really *invited*.

7. Prayers, sentences, hymns and rites in the celebration of the Holy Communion which are not authorized by our Book of Common Prayer, and also, the omission of what is prescribed, as, for example, the exhortation to those "who mind to come," and to those who come to the Holy Communion. Such prayers and sentences were used by Rev. Mr. Prescott in 1878, on Thursday after Trinity Sunday, (commonly called Corpus Christi day in the Romish Church), and on the 14th of May, 1879. Such hymns were used on the latter occasion, and especially the so-called *Agnus Dei* on that occasion, and at Christmas in 1878, as well as on other occasions. On the 14th of May, 1879, which was an "early celebration," and when only the Communion Service was used, the Lord's Prayer, the Creed, the Ten Commandments, the *Gloria in Excelsis*, the Collect and Epistles for the day were omitted; and there were substituted for them all the *Kyrie* of Cherubini's Requiem Mass, and an unauthorized Collect and Epistle. The omission of the exhortations

addressed to the people has already been disposed of under No. 6.

Thus all the practices or ceremonies to which attention was called in the Bishop's letter are proved as matters of fact; and it is abundantly clear that they are none of them ordained or authorized in the Book of Common Prayer.

It remains to see whether they set forth or symbolize erroneous or doubtful doctrine.

The erroneous or doubtful doctrine which they are alleged to set forth or symbolize may be stated in brief as: The doctrine of the real presence and the real sacrifice of the natural body and blood of Christ, assumed to be in some miraculous manner present on the Holy Table.*

The specifications Nos. 1 and 4, of genuflections, &c., and elevations, are expressly assumed in the Canon as examples of such symbolic ceremonies.

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*. . . "The real, actual and visible presence of our Lord upon the altars of our Churches; without that doctrine, as containing and inferring the sacerdotal office of the priest and the sacrificial character of the altar, there would seem to me to be no Church at all.

"In proportion as the doctrine of the Real Presence and Eucharistic Sacrifice have found their way into the faith of congregations, so have ceremonial observances increased and have become more and more acceptable. . . . . .
I have been enabled to revive the ancient Catholic vestments, and to use together with them many beautiful ceremonies.

"It is not for a chasuble or a cope, lighted tapers or the smoke of incense, . . . that we are contending, but, as all those who think deeply on either side of the question know full well, for the doctrines which lie hidden under them. No one of the commonest capacity would either undergo the trouble or encounter the expense which is unavoidably connected with the proper observance of religious ceremonies, if it were only for the external show which was to be gained in them."—*Rev. Mr. Bennet, as quoted in Privy Council Judgments (ed. Brooke) pp. 215, 216.*

Specification No. 2, of the use of candles, &c. The use of candles on the Holy Table is a "practice;" it is defined by the Council of Trent to be a "ceremony," and it is admitted to be symbolic. It symbolizes that Christ, the light of the world, becomes really present on the Holy Table. The use of the two candles, either on the Lord's Table, or in the hands of acolytes, symbolizes the erroneous or doubtful doctrine that the two natures in Christ, his deity and his humanity, are really present whole and entire on the Holy Table. That about "lights," &c., might be omitted as wanting in definiteness.*

Specification No. 3—Wearing the alb or chasuble is a "practice" and an "act" symbolical. It symbolizes the real sacrifice of the body and blood of Christ upon the "altar." Other vestments connected with them contribute to the same effect. They were held and used as sacrificial vestments. (*v.* Folkstone case.)

Specification No. 5, of acolytes. This is a "practice" symbolical of erroneous or doubtful doctrine; setting forth, it is said, "the real presence," and the great dignity of the office of the priest as the sacrificer of the very body and blood of Christ upon the "altar."†

Specification No. 6, of solitary communions. This symbolizes the doctrine that in the celebration of the Holy Communion, or of the Mass, a true propitiatory sacrifice is offered for the quick and the dead to have remission of pain or guilt; and that it is effectual by

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* It was omitted in the finding of the Standing Committee.

† This specification was omitted in the finding of the Standing Committee.

intention, and without personal participation of the elements.

The specification No. 7 falls into different parts. The positive parts, the prayers, sentences, hymns and rites as the prayer from the burial service, the *Agnus Dei*, the *Anima Christi*, kissing the "altar," crossings, &c., have their significance in setting forth either the real sacrifice or the real presence of the natural body and blood of Christ. The negative parts, the omissions, are certainly "practices," but they have the character of symbolic ceremonies or acts only as constituting subordinate parts of other significant ceremonies, and thus going to make up the entire ceremony. Thus it is not without pointed significance that the exhortations to those "who mind to come," and to those who come to the Holy Communion, should not be addressed to the people at the solitary Communions. Addressing them to the people, and particularly the longer one, would be ludicrously incongruous. Their omission, therefore, may be considered part and parcel of the practice of solitary Communion.

ABSTRACT OF THE TESTIMONY.

It may be proper to preface this abstract with the statement that all the witnesses were subject to be cross-examined by the Rev. Mr. Prescott's counsel, and that R. C. McMurtrie, Esq. was requested to assist in the examination-in-chief, in order to secure a proper mode of questioning the witnesses. With a view to economy of space, the questions are for the most part omitted. This abstract is here given at once, because the distribution of the testimony from point to point, as it has been referred to in the "notes," would have involved much repetition.

Charles R. King, M. D.,

June 9, 1878; 10.45 A. M.

I was present at the celebration of the communion at St. Clement's, on Whit-Sunday, 1878, at a quarter before 11 o'clock. After the consecration of the elements, and after sufficient time had elapsed, as it seemed to me, for the officiating clergyman to partake of them, the Rev. Mr. Prescott went up from his seat with a genuflection, bowing as he went up to the altar.

There were five boys in surplices; they were

kneeling during the whole time of the consecration of the elements, and when the cup was raised above the head of the Rev. Mr. Longridge (the celebrant), they prostrated themselves on the platform in front of them. The choir, of which I think the Rev. Mr. Mortimer was at the head, prostrated themselves as well as they could in pews. On each side of me there was a lady; they prostrated themselves as much as they could in pews. They were kneeling in the pews, and at that moment they prostrated themselves, went as much lower as they could; at the same time I heard a rustling on the part of the congregation, or a general movement.

"Are you quite sure that the organ was playing during the communion service?"

Yes, sir, I am; I will not say it was the organ, but it was music, and I presume it to have been the organ, especially there was no intermission during what I presumed to be the consecration of the elements. I did not hear the consecration at all; I did not hear a syllable if any was uttered. I was sitting in the second pew from the front.

The officiating clergyman [had on] a red garment with gold stripes in the back. He was standing with his back to the congregation, and it spread over a considerable distance. I cannot say that I saw him do any act so far as the consecration of the elements was concerned, except that I saw him raise the paten above his head, and also the cup above his head.

Nobody communed while I was in the Church except the Rev. Mr. Longridge, if he did. Mr. Prescott did not communicate. ["Describe Mr. Longridge's vestment more fully?"] Mr. Longridge had a

large scarlet cape on his shoulders, with a gold band coming down the back of it. That was the vestment to which my attention was particularly directed. He was the only one at the time who had on such a thing.

The longer exhortation was not given; the shorter, "ye who truly repent," &c., was said with his back to the congregation. There were several boys there who carried the elements to the Rev. Mr. Longridge, officiating. They preceded him in the first place from the vestry room to his position at the altar, and they brought the elements to him, and then they brought to him afterwards whatever was used for the purpose of rinsing the cups after they were used.

There were two lights, I think, on the communion table, and candelabras and others on the super-altar. These were not lighted until after the sermon, and then they were lighted by boys who were attendants. They were not needed to give light in the chancel. [After the consecration, &c., see as above,] Mr. Longridge, holding in his hand the paten, with something upon it which looked to me like a piece of bread; Mr. Prescott, holding the cup in his hands, [stood] facing the congregation I suppose, possibly, a minute, more likely half a minute, then turned their backs. I suppose [they] were held in that position up even with the chest, held to be looked at; that was all. The only elevation that I saw was during the consecration.

Ques. "You are quite positive that at the time of the consecration it [the cup] was elevated?"

Ans. Certainly, I saw it over his head. At that time the prostrations were made. I did not regard

that [the momentary exhibition of the paten and the cup] as an invitation. If I had desired to commune, I should have been very unwilling to have gone forward upon that invitation. I will say that the Rev. Mr. Prescott did not commune. The bread on the paten looked to me like a square piece—nothing in the appearance of it that indicated that it had been broken. It was not a quantity of bread; it was only one piece.

Ques. "Was it a cube?"

Ans. It seemed to me to be a square.

Ques. (By G. W. Biddle). "I think you used the language of genuflection or prostration by Mr. Prescott. Am I right in supposing that you used such language?"

Ans. Not prostration,—genuflection—a bowing of the head and a bending of the knee.

Lewis H. Redner, Esq.

Christmas, 1878; 10¾ A. M.

Mr. Prescott was in the chancel. It was on Christmas day, 1878, at a-quarter of eleven. During the prayer of consecration the wafer was lifted above the head of the celebrant. The chalice was lifted above the head of the celebrant, the celebrant making sundry genuflections with the knee to the floor and kissing the altar, and the worshippers all around me making a very profound bowing of their heads. The people made prostrations, the minister genuflected, the boys in the chancel bowed down very reverently with their heads to the steps of the chancel. I was able to see

distinctly during this elevation the thing which I call the wafer. The elevation came at the words, "This is my body." There were constant bowings [by the celebrant] before and after the prayer of consecration, with crossings made constantly over the cup. Those sitting around me made very low bowings with their heads, leaning their bodies over as far as the pews would permit. The difference was very marked at that time in the bowing, before, and at the time of, the consecration prayer.

There were a great many candles burning, acolytes lighted some of them immediately after the sermon before the communion office. No one communed but the priest. The day I was there the preacher said that if any presented themselves they would be refused at any high celebration, that any person wishing to communicate could do it at the lower celebration, but if any came forward that day they would be refused or rejected. Mr. Prescott did not communicate on that day; no one but the celebrant. The celebrant was vested in alb, chasuble and girdle; no other clergyman had the same dress. The exhortation, "Dearly beloved in the Lord," &c., was omitted. The acolytes made very profound obeisances, their foreheads touching the floor at the prayer of consecration. I was in the fifth or sixth pew from the chancel.

Anthems were sung, but I could not recognize [in them] any part of our communion service; they sang the *Agnus Dei* three times—I recognized that, but the anthems I could not recall. They sang choruses and it was impossible to recognize the words; but the *Agnus Dei* I recognized of course, I knew it came there in the [Romish] service. It was in English.

This was while the priest was communicating. The wafer was afterwards presented to the view of the congregation, but I could not state whether it was broken or not.

Rev. John Edgar Johnson,

June 16, 1878; 10.45 A. M.

I was present at the celebration of the Holy Communion at St. Clement's Church, on June 16, 1878, after ten o'clock; Mr. Prescott was there then. I heard not one word of the service, but my hearing is not acute, and I was not well in front, either—about two-thirds or three-fourths of the way up. I saw the celebrant hold up a large wafer, as large as the back of my hand, apparently, before the consecration. I saw the celebrant, after the consecration, turn and hold up the paten before the congregation, facing the congregation. Many of the congregation were as near to the floor as they could get conveniently. Many of them had left their kneeling stools and were on the floor, and were bowing down as low as seemed possible under the circumstances. On the part of the boys in the chancel, genuflections and prostrations at the time the clergyman held up the elements, after the consecration. One of the clergymen went around in front and prostrated himself. No one [of the congregation] communicated. I asked why? They said they never communicated at that hour. The Rector himself was there, and I think took no part in the service.

Rev. Carlos E. Butler,

November 23, 1878; 10.45 A. M.

I attended service at St. Clement's Church in the morning, at 10.45.

The vestment of the celebrant [who he thought was Mr. Prescott, but was not sure] had on the back of it a large cross, reaching from shoulder to shoulder, and from the neck, as low down as the robe went, which was almost down to the ground. The service was intoned in very much the same way as I have heard it intoned in the Roman Church.

I noticed after the elements were placed on the altar that there was a tendency on the part of all those persons in the chancel—I did not particularly observe the congregation—to be in a constant motion, and implying in different ways adoration to what was there placed. The acts were such as kneeling and bowing of the head at different times. Candles were placed on the altar and super-altar, and on either side of the altar. At the use of the words "This is my body," and "This is my blood," two candles were raised with an evident intention of expressing adoration.

I believe that that act of the candle-bearers is an expression of an evident intention of expressing adoration as done in the Church of Rome (I was brought up under that Church; I attended the service until I was seventeen years old.) I saw the elements lifted above the head of the celebrant at the pronouncing of the words "This is my body," and again, "This is my blood." The elements were both raised above his head, and his head was bowed before them. No one partook of the elements, no member of the

congregation, and no one who was in the Church except, perhaps, the celebrant. I did not hear the first part of the exhortation, nor the second part. I was in a position where I could hear it had it been read. I had the prayer-book in my hand and followed it closely. There was no gesture in any way that I could see of invitation to persons to come to receive the Holy Communion.

Francis Wells, Esq.

Attended service at St. Clement's Church, on May 14th, 1879, at 7 A. M., and on the Sunday previous.

Made a report of the services of May 14th, which was published in the paper. I will say that there is in the paper a full statement which I would prefer to verify or not, as the case may be, rather than to speak from memory at this time. That is my own writing, and is my own statement of what I then saw and heard. It was printed on the same day I was present. It was written by myself with special care, in order that I might publish a perfectly accurate account of this service, and I deviated from the usual order of business by going myself to attend the service to write the account of it, instead of sending a reporter to do so, fearing that the reporter might be unfamiliar with the technicalities of the service, and not wishing to have an inaccurate statement published; I wanted it to be literally correct.

On the Sunday preceding, the Rev. Mr. Prescott gave notice of this special service [of the 14th], stating, as near as I can recollect, that it was a memorial

service in reference to the death of the Rev. Dr. De Koven. Three reasons were given for the service being held at St. Clement's, which reasons I stated [in the printed report] in this language, preserving it as nearly as I can recollect, as I did not make any note of it on the spot:—*First*, That Dr. DeKoven was a distinguished champion of that eucharistic worship to which St. Clement's Church is so devoted. *Second*, That Dr. DeKoven made his first confession to a priest of that Church. *Third*, That he had been suffering under the great wrong of odium and obloquy, inflicted upon him for the maintenance of the truth of which he was a confessor.

At the second service, [May 14th, of which the notice had been given] the Rev. Mr. Prescott was the celebrant. At the close of the "Sanctus," he proceeded with the consecration, elevating the elements in turn above his head. During the singing of the *Agnus Dei*, which was sung after a hymn that was sung at the end of the prayer of consecration, the celebrant and the deacon, who was Father Mortimer, communicated, and then turned towards the congregation, holding up respectively the paten and chalice, making the sign of the cross. The service at this point differed from the celebration of the Sunday last, in the fact that this attitude was preserved for the space of a minute or more, and was responded to by three gentlemen who advanced from the nave and aisles, making a genuflection at the lower step of the chancel, receiving the consecrated elements, and retiring again, turning and making a genuflection toward the altar; the officiating priests then returning to the altar, each bending the knee as the elements were replaced upon it.

The music was what is commonly known as Cherubini's Requiem Mass. It was sung by a large choir. After the service, I asked the Rev. Mr. Mortimer, who conducted the musical part of the service, to give me the names of several anthems which had been sung, and I adopted in my report the names which he gave me. The first was the *Kyrie*. Between the Epistle and Gospel, the *Dies Irae* was sung. After the trisagion, the "*Sanctus*" was sung from the same mass. At the end of the prayer of consecration, the hymn was sung called "Loving Jesus," adapted, as I understood Father Mortimer, to Cherubini's music for that occasion. Immediately after that, the *Agnus Dei* was sung. The Lord's Prayer was then sung. The Credo and the Gloria were omitted, which I believe is characteristic of all requiem masses. Where I sat, I was unable to recognize the words which were sung, and, therefore, made inquiries about them. The musical passage of the requiem mass, which, in the mass, is connected with the representative words which distinguish a requiem mass from other masses, that is, the "*Requiem eternam dona iis Domine*," was sung with some words, but with what words I am unable to say.

Immediately on the close of the *Kyrie*, and immediately before the Epistle, the collect of the Burial Service, which begins "O Merciful God," was said. The Epistle was taken from the fourth chapter of the first Thess., thirteenth to the sixteenth verses, inclusive. I do not know whether it was the Epistle for the day.

The Gloria in Excelsis was not sung at that service; the creed was not used.

The service began with the Kyrie, "Lord have mercy upon us," and right following this anthem, came the collect from the Burial Service. The Commandments were not used. The Lord's Prayer was omitted. It came in [sung] at the close of the service. The service was early in the morning, about 7 o'clock, I think. The Sunday [on which he was present] was the Sunday immediately after the adjournment of the [Diocesan] Convention, and the Wednesday [the 14th of May] was immediately following that.

HAROLD GOODWIN, ESQ.

I attended service at St. Clement's when the Communion was celebrated. It was June 20th, 1878, *Corpus Christi* day. I understand that *Corpus Christi* day is a day that is a festival in the Romish Church, instituted to commemorate and particularly glorify the sacrifice of the mass, instituted about 1264, A. D., I think. How far this day was connected with any other [celebration] I do not know, I know that certain prayers were used for the "Confraternity of the Blessed Sacrament."

The Rev. Mr. Prescott was the celebrant. At the time of the consecration and elevation of the bread or host, they all bowed profoundly, some in the aisle, and I should have said that their noses went down to the pavement.

There were sentences and prayers recited by the congregation on their knees, with Mr. Prescott leading, which are not in the prayer-book, and are not in the Bible, and I do not know that they are authorized by

our Church. The words that particularly attracted my attention were these:—"Soul of Christ, sanctify me;" "Body of Christ, save me;" "Water from the side of Christ, wash me;" "O, good Jesus hear me; thy wounds hide me," and some other words which I do not remember. I identified it all in a little book of the confraternity within a day or two afterwards. This [the Anima Christi] was recited three or four times, after the invitation to the communion, and before the communicants went up to the rail once or twice, and after the administration, and before the concluding collect. It was recited as we recite the confession ordinarily in our Church, the clergyman leading and the congregation joining him. The people were on their knees.

At the close of the service, and while the congregation were remaining on their knees, Mr. Prescott went to the north side of the chancel and read several prayers, which I did not recognize as in the prayer-book, two of which I think expressly had the phrase in them "Our Confraternity," &c. I identified in the "Manual of the Confraternity," shortly after, several sentences in these prayers. [The witness here read from "The Manual" a long quotation, stating, among other things, that the Annual Conferences of the Confraternity are to be held on the Thursday after Trinity Sunday (which is Corpus Christi Day), or within eight days of that date, and that all priests-associate, shall, within the same period, if possible, celebrate the Holy Eucharist for the objects and intentions of the Confraternity, either in their own churches or in some neighboring parish.] This service was held in the chapel in the rear of St. Clement's Church, at eight

o'clock in the morning, I think. It was a public service. I was told by two young men, in long black robes or coats of some kind, that anybody could go in there, that all were invited to go in. I entered and took my seat.

N. B.—It may be worth while to observe that the dates to which the foregoing testimony refers are June 9th, 16th and 20th, November 23d, and Christmas day, in 1878; and May 14th, 1879; that on all these occasions the Rev. Mr. Prescott was present; and on June 20th, 1878, and May 14th, 1879, he himself officiated. All these dates are subsequent to that of the Bishop's former admonition, April 17th, 1877, and are within one year of the date of the commencement of these proceedings, June 2d, 1879.

APPENDIX.

The following extracts from the Constitution and Canons are here appended for easy reference:

ARTICLE 6.

[Constitution.]

The mode of trying Bishops shall be provided by the General Convention. The Court appointed for that purpose shall be composed of Bishops only. In every Diocese, the mode of trying Presbyters and Deacons may be instituted by the Convention of the Diocese. * * * * *

ARTICLE 8.

[Constitution.]

A Book of Common Prayer, Administration of the Sacraments, and other Rites and Ceremonies of the Church, Articles of Religion, and a Form and Manner of making, ordaining, and consecrating Bishops, Priests, and Deacons, when established by this or a future General Convention, shall be used in the Protestant Episcopal Church in those Dioceses which shall have adopted this Constitution. No alteration or addition shall be made in the Book of Common Prayer, or other Offices of the Church, or the Articles of Religion, unless the same shall be proposed in one General Convention, and by a resolve thereof made known to the Convention of every Diocese, and adopted at the subsequent General Convention. * * *

CANON 22.

Of the Use of the Book of Common Prayer.

§ i. Every Minister shall, before all sermons and lectures, and on all other occasions of public worship, use the Book of Common Prayer, as the same is or may be established by the authority of the General Convention of this Church; and in performing such service, no other prayers shall be used than those prescribed by the said Book.

§ ii. [1.] If any Bishop have reason to believe, or if complaint be made to him in writing by two or more of his Presbyters, that within his jurisdiction ceremonies or practices not ordained or authorized in the Book of Common Prayer, and setting forth or symbolizing erroneous or doubtful doctrines, have been introduced by any Minister during the celebration of the Holy Communion (such as,

a. The elevation of the Elements in the Holy Communion in such manner as to expose them to the view of the people as objects toward which adoration is to be made.

b. Any act of adoration of or toward the Elements in the Holy Communion, such as bowings, prostrations, or genuflections; and

c. All other like acts not authorized by the Rubrics of the Book of Common Prayer:)

It shall be the duty of such Bishop to summon the Standing Committee as his Council of Advice, and with them to investigate the matter.

[2.] If, after investigation, it shall appear to the Bishop and Standing Committee that ceremonies or

practices not ordained or authorized as aforesaid, and setting forth or symbolizing erroneous or doubtful doctrines, have in fact been introduced as aforesaid, it shall be the duty of the Bishop, by instrument of writing under his hand, to admonish the Minister so offending to discontinue such practices or ceremonies; and if the Minister shall disregard such admonition, it shall be the duty of the Standing Committee to cause him to be tried for a breach of his ordination vow.

Provided, That nothing herein contained shall prevent the presentment, trial, and punishment of any Minister under the provisions of Section 1, Canon 2, Title II, of the Digest.

[3.] In all investigations under the provisions of this Canon, the Minister whose acts or practices are the subject-matter of the investigation, shall be notified, and have opportunity to be heard in his defence. The charges preferred, and the findings of the Bishop and Standing Committee, shall be in writing, and a record shall be kept of the proceedings in the case.